IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14446 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AZIZ ABDULAH DAKORE

Versus

GUJARAT STATE ROAD TRASNPORT CORPORATION

Appearance:

1. Special Civil Application No. 14446 of 2004

MR PRABHAKAR UPADYAY for Petitioner No. 1

MR ASHISH M DAGLI for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 18/12/2004

ORAL JUDGEMENT

#. Rule. Mr. Ashish M. Dagli waives notice on behalf of the respondents. At the request of the learned advocates appearing for the parties, the petition is

taken up for final disposal today.

#. In the present petition, the petitioner has challenged the action of the respondents of not granting full salary upon his reinstatement. It is contended that the petitioner was dismissed from service by the respondents pursuant to the departmental inquiry. This order of dismissal was, however, challenged before the Labour Court, Rajkot and the Labour Court, by its order dated 5.12.2001, partially allowed the Reference, set aside the order of dismissal, directed reinstatement of the petitioner and also ordered payment of 75% backwages for the intervening period. Against the said order of the Labour Court, the respondents have preferred Special Civil Application No. 7305 of 2002. This petition has been admitted and is pending for final hearing before this Hon'ble Court. By order dated 5.9.2002, the learned Single Judge of this High Court, while issuing Rule, stayed the award of the Labour Court regarding payment of backwages. It was specifically clarified that there is no interim stay against the direction for reinstatement.

#. The petitioner thereafter came to be reinstated in service on 4.11.2002. It is, however, complained that the petitioner is not paid full salary and is being paid salary last drawn before he was dismissed from service. The petitioner made representations against this action of the respondents and by communication dated 18.8.2004, the respondents conveyed to the petitioner that there is no injustice done to him and he is reinstated pursuant to interim order of the High Court and all grievances can be examined after the disposal of the said petition.

#. Appearing for the respondents, the learned counsel Shri Dagli is unable to controvert the averments of the petitioner that though reinstated in service, the petitioner is being paid only the last wages drawn and is not being paid the current wages on the basis of continuity in service.

#. From the order dated 5.9.2002 passed by this Court, while admitting Special Civil Application No. 7305 of 2002, it is clear that what is stayed is the direction for payment of backwages contained in the order of the Labour Court, Rajkot and there was no stay against the directions for reinstatement. As a natural corollary thereof, the petitioner would be entitled to receive his full current salary including the release of increments for the intervening period on notional basis. Therefore, the action of the respondents in paying him the only last wages drawn before his dismissal is apparently unjust.

#. In the result, while allowing the petition, it is directed that the respondents shall pay to the petitioner current wages on the basis of his reinstatement with continuity in service, taking into account all increments falling due and give notional effect thereto for fixing the salary of the petitioner from the date of his actual reinstatement. In the result, the petition is allowed with the above direction. The directions contained herein would be carried out as expeditiously as possible and preferably within the period of three months from the date of the receipt of the copy of this order. Rule is made absolute accordingly. No order as to costs.

[AKIL KURESHI, J.]
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